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December 8, 2003

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#### Comments:

Re: U.S. Patent Application No. 09/776,454
For METHOD FOR ASSESSING FOOD ALLERGENICITY

Inventor(s): Gregorio del VAL et al.

Our Ref: 41627-20015.00

### Attached are the following:

- 1. Transmittal (1 page)
- 2. Request for Refund (3 pages)
- 3. Fee Transmittal dated 11/20/03 (copy, 1 page)

	,			Application Number		n unless it displays a valid OMB control numb					
TRANSMITTAL FORM  (to be used for all correspondence sitter initial filing)				Filing Date		February 2, 2001 Gregorio DEL VAL					
				First Named Inventor	7						
				Art Unit		1635					
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Total Number of Pages in This Submission			5	Attorney Docket Numb	er	416272001500					
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Express Ab	randonment Request .	X Request for Refund (3 pages)				Copy of Fee Transmittal dated 11/20/03 (1 page)					
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Certified Copy of Priority											
Document(s)  Response to Missing Parts/		Remarks									
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PATENT Docket No. 416272001500 Client Ref. B99-064-1

#### CERTIFICATE OF MAILING BY "FIRST CLASS MAIL"

I hereby certify that this correspondence is being faxed to the United States Patent and Trademark Office to fax no. 703-872-9306 on December 8, 2003.

Valeue Chlem

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Gregorio DEL VAL et al.

Serial No.: 09/776,454

Filing Date: February 2, 2001

For: METHOD FOR ASSESSING FOOD

**ALLERGENICITY** 

Examiner: Brian A. Whiteman

Group Art Unit: 1635

## REQUEST FOR REFUND

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313

Dear Sir:

The Notice of Appeal and extension fees filed on November 20, 2003 in the amount of \$640.00 was authorized to be charged to Deposit Account No. 03-1952. It has now been determined that the above amount should be credited back to the above deposit account. On August 28, 2003, a telephone interview was conducted with the Examiner for this application regarding the outstanding rejections in the Office Action mailed May 20, 2003, and the Advisory Action mailed July 25, 2003. In the interview, support in the specification for the pending

claims was identified to rebut the current new matter rejections. However, the Examiner noted new grounds for rejection that he felt needed to be addressed. As such, the Examiner indicated that he would withdraw the finality of the rejection and issue a non-final office action. Because no new non-final office action had been received by November 20, 2003 (the six month deadline to respond to the final office action dated May 20, 2003), a Notice of Appeal was filed with appropriate extension fees in order to prevent the application from being abandoned while waiting for the new non-final office action. On November 21, 2003, the Examiner mailed notice that the finality of the office action mailed May 20, 2003 had been withdrawn and a non-final office action would be forthcoming. Attached is a copy of the Fee Transmittal in support of this submission.

It is respectfully requested that the patent office credit Deposit Account No. 03-1952 in the amount of \$640 for the filing of the Notice of Appeal and associated extension fees. The assignee of this patent application is the Regents of the University of California, at Berkeley. The University is a non-profit institute devoted to education and research with limited funding for pursuing patents on the results of such research. The University should not be penalized due to the high workloads of patent examiners which prevented the Examiner for this application from sending the notice of withdrawal of finality of the pending office action. Had the notice been timely, the notice of appeal and associated extension fees would have been unnecessary.

VO. 939 DEC. 8. 2003 3:22PM MOFO 28TH FL P. 5

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing 416272001500. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: December 8, 2003

Respectfully submitted,

Registration No. 48,751

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San Francisco, California 94105-2482 Telephone: (415) 268-6846

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Under the Paperwork Reduction Act of 1995, no persons are requi	ired to r	ewoord t	U.S. Pa	ateni an	Approv d Trademari finformation	red for use the k Officer, U.S Luminas it dis	Mough 7/31/2006, OM R. DEPARTMENT OF A	B/17 (10-03 B 0651-003 COMMERC	
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SUBMITTED BY	Regist	ration No	40	751			(If applicable))		
Name (PrintType) Otis Littlefield	(Attern	Attemory/Appel) 48,751				Telephone (415) 268-6846			
Signature Da Justing						Date	November 20, 2	2003	
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I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office, facsimile no. (703) 872-9307, on the date shown below.